

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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JAMES FISCHER,

Plaintiff,

Case No. 15 CV 6266

v.

Judge Nathan

DEAN ERIC STIGLITZ,

Defendant.  
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**DECLARATION IN OPPOSITION TO  
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

Dennis M. Perlberg declares, pursuant to the provisions of 28 U.S.C. § 1746, as follows:

1. I am a member of the firm of Speyer & Perlberg, LLP, attorneys for the Defendant, Dean Eric Stiglitz. This declaration is submitted in opposition to the pending motion by Plaintiff, James Fischer, *pro se*, for a preliminary injunction pursuant to FRCP 65.

2. On September 29, 2015 Defendant filed a pre-answer motion pursuant to FRCP 12 (b)(2) to dismiss the Complaint for lack of personal jurisdiction and failure to state a claim upon which relief can be granted FRCP 12 (b)(6). A true copy of the motion papers is annexed hereto as Exhibits:

"A-1" - The notice of motion, pursuant to FRCP 12 (b)(2) and 12 (b)(6);

“A-2” – Affidavit of Defendant in support of Defendant’s motion to dismiss the Complaint; and

“A-3” – Defendant’s memorandum of law in support of the motion to dismiss the Complaint.

3. This action was commenced on August 10, 2015. A true copy of the summons and Complaint is annexed hereto as Exhibit “B”. A true copy of this Court’s docket showing the filing date for the instant action on August 10, 2015 is annexed hereto as Exhibit “C”.

4. Annexed hereto as are true copies of documents down-loaded from the internet that reflect upon Plaintiff’s standing as a limited purpose public person, in matters related to beekeepers:

“D-1” – A list of 10 articles published by Plaintiff on matters of interest to beekeepers.

“D-2” – A page from the website of NPR Radio Show, Leonard Lopate, wherein Plaintiff posed for a photograph wearing beekeeping protective gear; and

“D-3” – Advertisement for a documentary movie in which Plaintiff is starring or acting in regard to urban beekeeping, presently available on Amazon Prime and iTunes.

5. As set forth in Defendant’s memorandum of law submitted herewith, Defendant opposes Plaintiff’s motion for a preliminary injunction on the following grounds:

A. This Court lacks personal jurisdiction over Defendant;

B. The facts that Plaintiff relies upon to support the preliminary injunction were published more than a year before the suit was commenced and are barred by the Statute of Limitations;

C. The Plaintiff is not likely to prevail on his cause of action for violation of N.Y. Civil Rights Law §50 and 51 because Plaintiff fails to state a claim upon which relief may be granted under said Sections; and

D. Plaintiff will not be irreparably harmed if the injunction is denied.

I declare under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct.

Dated: Melville, New York  
October 5, 2015



Dennis M. Perlberg (DP 9514)